

REMARKS

In the Office Action mailed September 8, 2006, the Examiner noted that claims 1-29 were pending, allowed claim 22, objected to claim 16 and rejected claims 1-15, 18-21 and 23-25. Claims 1, 11, 13, 16 and 28 have been amended, new claims 30-35 have been added and, thus, in view of the forgoing claims 1-35 remain pending for reconsideration which is requested. No new matter has been added. The Examiner's rejections are traversed below.

In the Office Action the Examiner objected to claims 16 and indicated that this claim would be allowable if rewritten in independent form. This claim has been so rewritten and it is submitted that this claim has not been narrowed and has the same scope as prior to being made independent and are now allowable. Withdrawal of the objection is requested.

In the Office Action the Examiner rejected claims 13 and 28 under 35 U.S.C. section 112 paragraph 2 as indefinite. The claims have been amended in consideration of the Examiner's comments and it is submitted they satisfy the requirements of the statute. If additional concerns with the claims arise, the Examiner is invited to telephone to resolve the same. Suggestions by the Examiner are also welcome. Withdrawal of the rejection is requested.

On page 2 of the Office Action, the Examiner rejected claims 1-9, 26 and 29 under 35 U.S.C. § 102 as anticipated by Ono. Page 5 of the Office Action rejects claims 10-12, 14, 15, 17-21, 23-25 and 27 under 35 U.S.C. § 103 over Ono.

In this rejection several of the claims were rejected under 35 USC 103 over Ono in view of Official Notice. The Office Action admitted that Ono failed to show various features. However, the Office Action fails to recognize that the interface is positioned by the cursor and that the cursor is not being used as "the visual indicator of the target of the user's selection on a display" but rather the place where the interface itself is to be positioned to be later used as a target for a selection operation. That is, the Examiner's appreciation of the relationship of the cursor is misplaced. The use to place and the use to indicate a target are very different uses. For at least these reasons, the Office Action failed to establish a case of *prima facie* unpatentability, in view of alleged Official Notice evidence. Based on the reasons presented above showing the errors in the Office Action's rejection of the claims, Applicant respectfully requests (that is, demands) that references teaching or suggesting the alleged well known Officially Noted evidence and an Examiner's affidavit describing the knowledge of the Examiner relied on specifically in relation to this issue in the rejection of the claims be presented in the next Office Action or the Official Notice based rejection be withdrawn.

The Examiner particularly pointed to figures 6 and 7 of Ono. In particular, Ono discusses the arc of the hand when making a stroke but does not layout the menu items themselves in an arc. The menu items are in a stair-stepped arrangement with an inclination angle that is specified as constant (see col. 3, line 32) and a stair step constant process is used as shown in figure 10. If you draw a line through the corners of the menu item boxes in figure 6 of Ono, a straight line is formed.

In contrast, the interface element graphic and/or the control zone containing the controls therein are in an "arc shape" (see claims 1, 11, 23, 26 27 and 29). As noted above, the layout and the shape of the controls in Ono are linear.

It is submitted that the independent claims distinguishes over the prior art and withdrawal of the rejection is requested.

The dependent claims depend from the above-discussed independent claims and are patentable over the prior art for the reasons discussed above. The dependent claims also recite additional features not taught or suggested by the prior art. For example, claim 18 emphasizes an overflow interface positioned responsive to the motion arc. The prior art does not teach or suggest such. It is submitted that the dependent claims are independently patentable over the prior art.

New claims 30-35 emphasize particular motions or combinations of motions that are different from the motion discussed by Ono (see col. 2, lines 1-7 and col. 3, lines 16-24. Nothing in the prior art teaches or suggests such. It is submitted that these new claims, which are different and not narrower than prior filed claims distinguishes over the prior art.

It is submitted that the claims satisfy the requirements of 35 U.S.C. 112. It is also submitted that claims 16 and 22 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

If any further fees, other than and except for the issue fee, are necessary with respect to this paper, the U.S.P.T.O. is requested to obtain the same from deposit account number 19-3935.

Respectfully submitted,

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